

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,)	CR 10-04-M-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MICHAEL JAMES BURNS, JR.,)	
)	
Defendant.)	
_____)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on June 24, 2010. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm

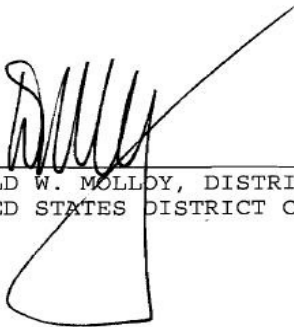
conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Michael James Burns, Jr.’s guilty plea after Burns appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 (Count I), as set forth in the Indictment. In exchange for Defendant’s plea, the United States has agreed to dismiss Count II of the Indictment.

I find no clear error in Judge Lynch’s Findings and Recommendation (dkt #34) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Burns’ motion to change plea (dkt #25) is GRANTED.

DATED this 20th day of July, 2010.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT